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AUG 02 2007

OFFICE OF PETITIONS

In re Application of :
Jetze J. Tepe :
Application Number: 10/726411 : DECISION ON PETITION
Filing Date: 12/03/2003 :
Attorney Docket Number: MSU - :
14322 :

This is a decision on the petition filed on 4 June, 2007, under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

The application became abandoned on 28 February, 2007, for failure to timely respond to the non-final Office action mailed on 27 November, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing

application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The petition lacks item (1).

With regard to item (1), petitioner filed papers intended as an amendment in response to the non-final Office action with the present petition, but the papers are not signed. 37 CFR 1.4(c) requires that each piece of correspondence filed in the Office must be signed. While the proposed amendment contains a signature block for registered attorney Robert A. Goetz, the signature block has been left blank.

Petitioner should provide a signed amendment with a renewed petition.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.¹ The three-month extension request filed on 4 June, 2007 (certificate of mailing date 30 May, 2007), was submitted more than three (3) months after the end of the period for reply to the non-final Office action mailed on 27 November, 2006, and therefore is unnecessary. The extension of time fee paid on 4 June, 2007, will be credited to counsel's deposit account as authorized.

Further correspondence with respect to this matter should be addressed as follows:


¹ See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

By mail: Mail Stop Petition
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By FAX: (571) 273-8300
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 Randolph Building
 401 Dulany Street
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Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.


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